



Judge Marsha J. Pechman

02-CR-00260-STIP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,

v.

ALEX LACSON,
Defendant.

NO. CR02-260P

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Jeffrey B. Coopersmith, Ye-Ting Woo, and Richard E. Cohen, Assistant United States Attorneys for said District, and Todd Brilliant, Special Assistant United States Attorney for said district, and the Defendant, ALEX LACSON, and his attorney, Peter Mazzone, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. Waiver of Indictment. Defendant, having been advised of the right to be charged by Indictment, agrees to waive that right and enter a plea of guilty to the charge brought by the United States Attorney in an Information.

2. The Charge(s). Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charge:

Count 1 of the one-count felony Superseding Information filed in Case No. CR02-260P, which charges Obstruction of Agency Proceedings, in violation of Title 18, United States Code, Section 1505.

1 By entering this plea of guilty, Defendant hereby waives all objections to the
2 form of the charging document.

3 3. Elements of the Offenses. The elements of the offense of Obstruction of
4 Agency Proceedings, as charged in the Superseding Information, in violation of Title 18,
5 United States Code, Section 1505, are as follows:

6 (a) the defendant influenced, obstructed or impeded, or endeavored to
7 influence, obstruct or impede the due and proper administration of the law under which a
8 pending proceeding was being had before any department or agency of the United States;
9 and

10 (b) the defendant acted corruptly, that is, the defendant acted with an
11 improper purpose, personally or by influencing another.

12 4. The Penalties. Defendant understands that the statutory penalties for the
13 offense of Obstruction of Agency Proceedings, as charged in the Superseding
14 Information, in violation of Title 18, United States Code, Section 1505, are as follows:
15 imprisonment for up to five (5) years, a fine of up to two hundred fifty thousand dollars
16 (\$250,000.00), a period of supervision following release from prison of between two
17 (2) and three (3) years, and a one hundred dollar (\$100.00) penalty assessment.

18 Defendant agrees that the penalty assessment of \$100 shall be paid at or before
19 the time of sentencing.

20 Defendant agrees that any monetary penalty the Court imposes, including the
21 special assessment, fine, costs or restitution, is due and payable immediately, and
22 further agrees to submit a completed Financial Statement of Debtor form as requested
23 by the United States Attorney's Office.

24 Defendant understands that supervised release is a period of time following
25 imprisonment (if imprisonment is imposed) during which he will be subject to certain
26 restrictions and requirements. Defendant further understands that if supervised release
27 is imposed and he violates one or more of its conditions, he could be returned to prison
28 for all or part of the term of supervised release that was originally imposed. This could

1 result in Defendant serving a total term of imprisonment greater than the statutory
2 maximum stated above.

3 5. Rights Waived by Pleading Guilty. Defendant understands that, by
4 pleading guilty, he knowingly and voluntarily waives the following rights:

5 a. The right to plead not guilty, and to persist in a plea of not guilty;

6 b. The right to a speedy and public trial before a jury of Defendant's
7 peers;

8 c. The right to the effective assistance of counsel at trial, including, if
9 Defendant could not afford an attorney, the right to have the Court appoint one for
10 Defendant;

11 d. The right to be presumed innocent until guilt has been established
12 at trial, beyond a reasonable doubt;

13 e. The right to confront and cross-examine witnesses against
14 Defendant at trial;

15 f. The right to compel or subpoena witnesses to appear on
16 Defendant's behalf at trial;

17 g. The right to testify or to remain silent at trial, at which trial such
18 silence could not be used against Defendant; and

19 h. The right to appeal a finding of guilt or any pretrial rulings.

20 6. Applicability of Sentencing Guidelines. Defendant understands and
21 acknowledges the following:

22 a. The United States Sentencing Guidelines, promulgated by the
23 United States Sentencing Commission, are applicable to this case;

24 b. The Court will determine Defendant's applicable Sentencing
25 Guidelines range at the time of sentencing;

26 c. The Court may impose any sentence authorized by law, including a
27 sentence that, under some circumstances, departs from any applicable Sentencing
28 Guidelines range up to the maximum term authorized by law;

1 d. The Court is not bound by any recommendation regarding the
2 sentence to be imposed, or by any calculation or estimation of the Sentencing
3 Guidelines range offered by the parties, or by the United States Probation Department;
4 and

5 e. Defendant may not withdraw a guilty plea solely because of the
6 sentence imposed by the Court.

7 7. Ultimate Sentence. Defendant acknowledges that no one has promised or
8 guaranteed what sentence the Court will impose.

9 8. Restitution. Pursuant to Title 18, United States Code, Sections
10 3663(a)(3) and 3663A(a)(3), Defendant shall pay and agrees to pay restitution in the
11 total amount of ninety thousand dollars (\$90,000.00). Defendant agrees that this
12 restitution amount shall be paid as follows: \$50,000.00 to Melanie Lacson, based on
13 her investment in that amount through Defendant in Vortex Financial Corporation;
14 \$30,000 to Elizabeth Vargas, based on her investment in that amount through
15 Defendant in Vortex Financial Corporation; and \$10,000 to the Receiver appointed by
16 the Court in Securities and Exchange Commission v. Health Maintenance Centers,
17 Inc., et. al., C02-153P (W.D. Wa.), for distribution by the Receiver to those persons
18 classified as investors – in the event that the Receivership terminates prior to
19 Defendant's full payment of restitution due the Receiver, the Defendant shall pay
20 restitution to those persons classified as investors in the Court's final distribution order
21 in Securities and Exchange Commission v. Health Maintenance Centers, Inc., et. al.,
22 C02-153P (W.D. Wa.). All restitution agreed to by the parties and ordered by the
23 Court shall be due and payable immediately, and shall be paid in accordance with a
24 schedule of payments as ordered by the Court.

25 9. Statement of Facts. The parties agree on the following facts in support of
26 Defendant's guilty plea and for purposes of calculating the base offense level of the
27 Sentencing Guidelines. Defendant admits he is guilty of the offense charged in the
28 Superseding Information.

1 On or about the 1st day of September, 2001, at Kirkland, within the Western
2 District of Washington, and elsewhere, the defendant, ALEX LACSON, did corruptly,
3 that is, acting with an improper purpose, influence, obstruct and impede, and endeavor to
4 influence, obstruct and impede, the due and proper administration of the law under which
5 a pending proceeding, to wit, In the Matter of Health Maintenance Centers, Inc. (LA-
6 02477), was being had before the United States Securities and Exchange Commission
7 ("SEC"), an agency of the United States, by instructing a witness located in Dana Point,
8 California with the initials D.K., who had received a duly authorized subpoena *duces*
9 *tecum* issued by the SEC, not to respond to such subpoena. Specifically, on August 30,
10 2001, the SEC had issued a subpoena *duces tecum* to D.K. commanding D.K. to produce
11 various documents relating to the sale of securities issued by Health Maintenance Centers,
12 Inc. and Znetix, Inc. The subpoena commanded D.K. to produce the documents at the
13 Los Angeles, California office of the SEC on September 14, 2001, at 10:00 a.m. On
14 September 1, 2001, D.K. sent the SEC subpoena he had received by facsimile
15 transmission from telephone number (949) 489-1654, located in Dana Point, California,
16 to Defendant ALEX LACSON at telephone number (425) 822-5414, located in
17 Kirkland, Washington. Defendant ALEX LACSON contacted Kevin L. Lawrence, the
18 founder and principal officer of Health Maintenance Centers, Inc. and Znetix. Based
19 on his conversation with Lawrence, Defendant ALEX LACSON, ^{Repeated to} ~~instructed~~ D.K. ^{instructions given by Lawrence} ~~not to~~
20 respond to the SEC subpoena for the improper purpose of concealing information from
21 the SEC. On September 12, 2001, D.K. sent a letter to the SEC falsely stating that he
22 had no documents to produce in response to the SEC subpoena other than some Znetix
23 advertising materials.

24 10. Non-Prosecution of Additional Offenses. If Defendant complies fully
25 with this Plea Agreement, the United States Attorney's Office for the Western District of
26 Washington agrees not to prosecute Defendant for any additional offenses known to it as
27 of the time of this Agreement that are based upon evidence in its possession at this time,
28 or that arise out of the conduct giving rise to this investigation. In this regard, Defendant

1 recognizes that the United States has agreed not to prosecute all of the criminal charges
2 that the evidence establishes were committed by Defendant solely because of the
3 promises made by Defendant in this Agreement. Defendant acknowledges and agrees,
4 however, that for purposes of preparing the Presentence Report, the United States
5 Attorney's Office will provide the United States Probation Office with evidence of all
6 relevant conduct committed by Defendant. Further, if defendant complies fully with this
7 Plea Agreement, the United States Attorney's Office for the Western District of
8 Washington will, at the time of sentencing, move to dismiss all counts of the Second
9 Superseding Indictment against Defendant ALEX LACSON. Defendant agrees and
10 acknowledges that any charges to be dismissed before or at the time of sentencing were
11 substantially justified in light of the evidence available to the United States, were not
12 vexatious, frivolous or taken in bad faith, and do not provide Defendant with a basis for
13 any future claims under the "Hyde Amendment," Pub.L. No. 105-119(1997).

14 11. Voluntariness of Plea. Defendant acknowledges that he has entered into
15 this Plea Agreement freely and voluntarily, and that no threats or promises, other than
16 the promises contained in this Plea Agreement, were made to induce Defendant to enter
17 this plea of guilty.

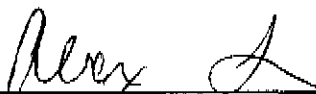
18 12. Statute of Limitations. In the event that this Agreement is not accepted by
19 the Court for any reason, or Defendant has breached any of the terms of this Plea
20 Agreement, the statute of limitations shall be deemed to have been tolled from the date
21 of the Plea Agreement to: (1) thirty days following the date of non-acceptance of the
22 Plea Agreement by the Court; or (2) thirty days following the date on which a breach
23 of the Plea Agreement by Defendant is discovered by the United States Attorney's
24 Office.


25 13. Post-Plea Conduct. Defendant understands that the terms of this Plea
26 Agreement apply only to conduct that occurred prior to the execution of this
27 Agreement. If, after the date of this Agreement, Defendant should engage in conduct
28 that would warrant an increase in Defendant's adjusted offense level or justify an

1 upward departure under the Sentencing Guidelines (examples of which include, but are
2 not limited to: obstruction of justice, failure to appear for a court proceeding, criminal
3 conduct while pending sentencing, and false statements to law enforcement agents, the
4 probation officer or Court), the United States is free under this Agreement to seek a
5 sentencing enhancement or upward departure based on that conduct.

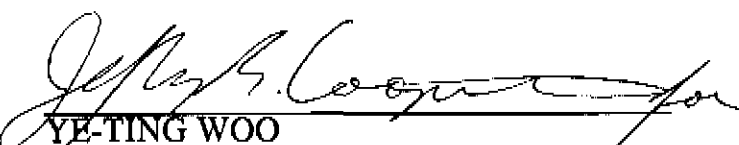
6 14. Completeness of Agreement. The United States and Defendant
7 acknowledge that these terms constitute the entire Plea Agreement between the parties.
8 This Agreement only binds the United States Attorney's Office for the Western District
9 of Washington. It does not bind any other United States Attorney's Office or any other
10 office or agency of the United States, or any state or local prosecutor.


11 DATED this 9th day of December, 2003.

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ALEX LACSON
Defendant

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PETER MAZZONE
Attorney for Defendant

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FLOYD G. SHORT
Assistant United States Attorney

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YE-TING WOO
Assistant United States Attorney

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JEFFREY B. COOPERSMITH
Assistant United States Attorney